

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3133 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RASIKLAL CHANDULAL SHAH

Versus

CENTRAL EXCISE AND CUSTOMS DEPARTMENT

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Appearance:

MR MB GANDHI for Petitioners

MR BB NAIK for Respondent No. 1, 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by petitioners-Rasiklal Chandulal & Anr. under Article 226 of the Constitution of India seeking direction to reassess rent of the subject-premises for the period 1982-87 and to make payment on that basis.

2. The say of the petitioners is that his premises

was rented out to the respondents in the year 1975 on a rent of 1.25 per sq.ft. which was fixed at Rs.1,338/per month. As per the agreement, the rent was required to be revised at the interval of 5 years.

3. This Applmication is being opposed by Mr B B Naik learned Addl. Central Government Standing Counsel on the ground of delay in approaching this Court. I have considered the contention of the learned Counsel and rejected the same in an identical matter being Special Civil Application No.2397/93 decided today.

4. It is not in dispute that under the certificate dated 24.10.1994, the CPWD has assessed the rent of the subject premises between Rs.2,620/- and Rs.3,721/-. The assessment has been made in accordance with the principles laid down by the Directorate of CPWD and as per the prevailing market rate in the locality respectively. It would thus be convenient to fix rent of the premises taking the average of the aforesaid two figures given in the certificate which comes to Rs.3,170/- per month. It is stated that a certain amount against rent has been paid to the petitioner under the interim orders of this Court.

5. In view of the aforesaid, this Special Civil Application is allowed. The respondents are directed to pay rent to the petitioners for the period 1982-87 in accordance with the certificate dated 24.10.1984 issued by the iCPWD fixing the average rent at Rs.3,170/- per month, after making adjustments of the amount paid in excess or short. If any excess amount has been paid, the same shall be adjusted against the rent of the subsequent years. The respondents shall undertake the entire exercise of calculation and pay the amount due, if any, within a period of two months from the date of receipt of the writ.

Rule is made absolute to the aforesaid extent with no order as to costs.

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#### FURTHER ORDER

After pronouncement, Mr B B Naik, learned Addl. Central Government Standing Counsel submits that the order fixing the rent for the period 1982-87 may be stayed for a period of 4 weeks with a view to approach the higher forum. This prayer is being opposed by Mr M B Gandhi, learned Advocate for the petitioner. However, it is directed that this order will not be given effect for

a period of 3 weeks.

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